

REMARKS

Introduction

Claims 1 - 5 were originally pending in this application. Claims 1, 3, and 5 have been amended in response to the latest Office Action. Thus, claims 1 - 5 remain in the application. No new matter has been added.

The Abstract

The Abstract of the disclosure was objected to in connection with its format and length. The abstract has been amended with the Examiner's comments in mind and to comply with the requirements of MPEP § 608.01(b).

Claim Objections

Claims 1, 2, and 5 were objected to on the basis of certain informalities. More specifically, the Examiner stated that --desired-- should be inserted between "the" and "clutch" in lines 15 and 23 of claim 1, and in lines 9, 27, and 37 of claim 5. The Examiner further stated that --engine-- should be inserted between "target" and "speed," with --profile-- inserted after "speed" in line 18 of claim 1 and line 30 of claim 5. Additionally, the Examiner stated "from" should be deleted between "the" and "initial" in line 7 of claim 2 and line 20 of claim 5. Finally, the Examiner stated that "speed" should be changed to --acceleration-- in line 8 of claim 2, and --of the transmission-- should be inserted after "torque output" in line 20 of claim 5.

Claims 1, 2, and 5 have been amended as noted above to correct these informalities. Accordingly, applicants respectfully request that the objections to the claims be withdrawn.

Claim Rejections

35 U.S.C. § 112

Claims 1 through 5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. However, the Examiner further stated that claims 1 –5 would be allowable if rewritten or amended to overcome the 35 U.S.C. § 112, second paragraph rejection. More precisely, with respect to claim 1 the Examiner stated that the terms:

“the torque” in line 1;

“the driven member” in lines 5 and 6;

“the torque output” in line 12;

“the synchronizer” in lines 17 and 18; and

“the pressure” in line 28;

all lack sufficient antecedent basis. Additionally, the Examiner stated that the term “the pressure” in line 5 of claim 2 lacks sufficient antecedent basis. Further, with respect to claim 5 the Examiner stated that the terms:

“the torque” in line 1;

“the engine throttle and engine speed” in line 5;

“the driven member” in lines 8 and 10; and

“the pressure” in lines 5 and 16;

all lack sufficient antecedent basis.

Applicants respectfully traverse these rejections. Claim 1 is directed toward a “**method** for controlling the torque transferred across each of the two clutches of a dual clutch transmission during a two-gear positive downshift.” Similarly, claim 5 is directed toward a “**method** for controlling the

torque transferred across each of the two clutches of a dual clutch transmission during a two-gear positive downshift.” The invention of claims 1 and 5 is defined by the *steps* of the method. Thus, the invention claimed lies in the function, or actions taken in the steps of the method, not in the underlying structure or operational properties of the device being controlled by the method steps.

More specifically, applicants are not claiming any structure associated with the “the torque” of the dual clutch transmission, “the driven member” of either clutch within the transmission, “the torque output” of the transmission, “the synchronizers” of the transmission, nor “the pressure” applied to the clutches of the transmission in either claim 1, 2, or claim 5. These elements are recited because the method steps do not exist in a vacuum and it is necessary to place the method steps within the framework of a dual clutch transmission to define them. However, it is important to note that the subject of the claims is not a dual clutch transmission. Rather, the present invention is directed toward a series of method steps that are designed to *control* the output of the transmission. It is respectfully submitted that the language of in claims 1, 2, and 5 that is objected to by the Examiner is not positively recited in either claim. Accordingly, this language does not require any antecedent basis.

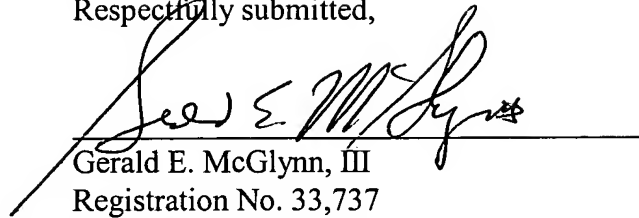
Therefore, in view of the above, it is respectfully submitted that the claims, as amended, fully comply with the requirements of § 112 and are in condition for allowance. Accordingly, applicants request that this rejection under § 112 be withdrawn.

Conclusion

In view of the above, applicants respectfully submit that the claims, as amended, clearly distinguish over the prior art and are therefore allowable. Accordingly, applicants respectfully solicit

the allowance of the claims pending in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald E. McGlynn, III", is written over a horizontal line. The signature is stylized with a large initial "G" and a prominent "M".

Gerald E. McGlynn, III
Registration No. 33,737
BLISS McGLYNN, P.C.
2075 W. Big Beaver, Suite 600
Troy, Michigan 48084
(248) 649-6090

Date: October 7, 2004

Attorney Docket No.: DKT02025A (0267.00060)